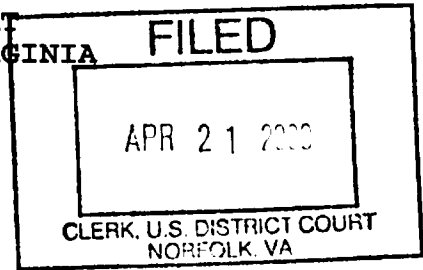


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



MICHAEL JAVON-LEE HUNTER, #345245,

Petitioner,

v.

ACTION NO. 2:08cv351

GENE M. JOHNSON, Director of the
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition alleges violation of federal rights pertaining to Petitioner's convictions on January 11, 2005, in the Circuit Court of the City of Virginia Beach for statutory burglary, grand larceny, felony failure to appear and violation of probation, as a result of which Petitioner was sentenced to serve 16 years in the Virginia penal system.


The petition was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge's Report and Recommendation filed March 30, 2009, recommends the Respondent's Motion to Dismiss be granted and the petition be denied as barred by the statute of limitations. The Court has received no objections to the Magistrate Judge's Report and Recommendation and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed March 30, 2009. It is ORDERED that the Respondent's Motion to Dismiss be GRANTED, that the petition be DENIED, and that judgment be entered in favor of the Respondent.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322 (2003).

The Clerk shall mail a copy of this Final Order to the Petitioner and to counsel of record for the Respondent.

/s/
Rebecca Beach Smith
United States District Judge 
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

April 21, 2009